December 14, 2000

EX PARTE

The Honorable William E. Kennard
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Reciprocal compensation for Internet-bound calls (CC Docket No. 99-68)

Dear Chairman Kennard:

Recent news reports indicate that the Federal Communications Commission is considering a plan to impose mandatory "bill and keep" as the reciprocal compensation arrangement for calls that involve an Internet service provider.

The Washington Utilities and Transportation Commission urges the FCC not to take such an action, because it would be harmful to local competition, to consumers, and to the economic health of the Internet itself. The WUTC, like virtually every other state commission, is already implementing reasonable, economically efficient policies regarding reciprocal compensation, and the FCC would be wise to let those state activities continue.

Both the FCC and the WUTC have been remarkably successful in implementing the local competition provisions of the Telecommunications Act of 1996. One reason for our success has been that we follow a simple rule: Set the prices for interconnection and unbundled elements based on costs. Mandatory bill and keep would be a dramatic departure from this policy. It would require that companies terminate Internet-bound calls at no charge, even though those calls indisputably have costs associated with them.

Incumbent local exchange companies have claimed that reciprocal compensation payments provide a windfall to competitive local exchange companies that serve Internet service providers. To be sure, there are legitimate questions about the proper rate to be charged for these calls, and it is the state commissions that have the capability and expertise to answer those questions. However, the appropriate rate most certainly is not zero. Were competitive local exchange companies not to exist, those calls would be terminated by the incumbent companies themselves, and those incumbents would incur transport and switching costs. As the Telecommunications Act of 1996 provides, competitive local exchange companies are entitled to reciprocal compensation in the amount of those costs.

When traffic is in balance between two interconnecting carriers, bill and keep is an efficient and fair arrangement. Where traffic is not in balance, bill and keep does not provide adequate compensation to the carrier who is terminating excess volumes. Regardless of one's views on the jurisdictional nature of Internet-bound calls, the fact remains that terminating these calls has a cost. Mandatory bill and keep does not result in adequate compensation where traffic is not in balance.

The WUTC, and other state commissions, have worked diligently since 1996 to implement local competition, including the reciprocal compensation provisions in 47 USC 252(d)(2) that are specifically assigned to state commissions. It would be an unfortunate step backwards for the FCC to impose upon state commissions any requirement that specific types of transport and termination be provided without compensation.

We urge the FCC to refrain from taking any action and continue to leave this matter to the state commissions.

Sincerely,

Marilyn Showalter	Richard Hemstad	William R. Gillis
Chairwoman	Commissioner	Commissioner

cc: The Honorable Susan Ness
The Honorable Harold W. Furchtgott-Roth
The Honorable Michael K. Powell
The Honorable Gloria Tristani